

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

J. ANDREW SMYSER  
MAGISTRATE JUDGE

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June 19, 2003

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Joseph Terz, Esquire  
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Re: Norwood v. Romine; 1:CV-01-1005

Mr. Norwood and Mr. Terz:

At the pretrial conference held today Magistrate Judge Smyser indicated that he would provide to the parties a copy of the jury instructions on punitive damages that he usually gives to a jury. Enclosed are those instructions.

Sincerely,

*Melissa E. Sayres*

Melissa E. Sayres  
Law Clerk to Magistrate  
Judge Smyser

If you find for the plaintiff and award compensatory or nominal damages you may, but are not required to, award punitive damages. The purpose of punitive damages is not to compensate the plaintiff for injuries. Rather, the purposes of punitive damages are to punish defendants and to deter defendants and others from committing similar acts in the future.

The plaintiff has the burden of proving that punitive damages should be awarded and the amount of punitive damages by a preponderance of the evidence. You may award punitive damages only if you find that the defendant's conduct was malicious or in reckless disregard of plaintiff's rights. Conduct is malicious if it is accompanied by ill will, or spite, or if it is for the purpose of injuring another. Conduct is in reckless disregard of plaintiff's rights if, under the circumstances, it reflects complete indifference to the safety and rights of others.

If you find that punitive damages are appropriate you must use reason in setting the amount. Punitive damages, if any, should be in an amount sufficient to fulfill their purposes but should not reflect bias, prejudice or sympathy toward any party. In considering punitive damages, you may consider the degree of reprehensibility of the defendant's conduct and the relationship of any award of punitive damages to any actual harm inflicted on the plaintiff.